

HOUSE BILL No. 4644

April 24, 2007, Introduced by Reps. Accavitti, Gillard, Miller, Mayes, Donigan, Lahti and Condino and referred to the Committee on Agriculture.

A bill to amend 1956 PA 40, entitled
"The drain code of 1956,"
by amending section 421 (MCL 280.421).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 421. (1) ~~Whenever any person shall obstruct any~~
2 ~~established drain, it shall be the duty of the commissioner to~~
3 ~~cause such obstruction to be removed. Any lessening of the area of~~
4 ~~a drain, which area shall be a cross section of the drain, shall be~~
5 ~~deemed to be an obstruction. A PERSON SHALL NOT OBSTRUCT, PERMIT AN~~
6 ~~OBSTRUCTION, OR OTHERWISE INTERFERE WITH OR ENCROACH UPON A DRAIN~~
7 ~~OR A DRAIN RIGHT-OF-WAY. OBSTRUCTION IS ANY LESSENING OF THE CROSS-~~
8 ~~SECTION OF A DRAIN, INCLUDING, BUT NOT LIMITED TO, THAT RESULTING~~
9 ~~FROM ANY BRIDGE, CABLE, PIPELINE, SEWER, CONDUIT, ROADWAY, CULVERT,~~

1 RAILROAD TIES, OR OTHER STRUCTURE. OBSTRUCTION DOES NOT INCLUDE
 2 CONSTRUCTION OF A STRUCTURE AS APPROVED BY THE DRAIN COMMISSIONER
 3 OR THE DRAINAGE BOARD. INTERFERE MEANS ANY ACTION TAKEN THAT
 4 HINDERS OR IMPEDES THE INTENDED PURPOSE, DESIGN, OR OPERATION OF
 5 THE DRAIN OR THAT WILL INCREASE THE COST TO THE DISTRICT OF
 6 PERFORMING ANY OF ITS WORK ON THE DRAIN OR THAT IS CONSIDERED
 7 INCONSISTENT WITH THE DISTRICT'S EASEMENT. ENCROACH MEANS ANY
 8 ACTION WHICH ADVANCES UPON THE PROPER, ESTABLISHED, OR USUAL LIMITS
 9 OF THE DRAIN OR DRAIN RIGHT-OF-WAY. The person causing such ~~OR~~
 10 PERMITTING THE obstruction OR OTHERWISE INTERFERING WITH OR
 11 ENCROACHING UPON A DRAIN OR DRAIN RIGHT-OF-WAY shall be liable for
 12 the expense attendant upon ~~RESULTING FROM~~ the removal thereof,
 13 together with the charges of the commissioner. ~~, and the same~~ **THE**
 14 **EXPENSE** shall be a lien upon the lands of the party causing or
 15 permitting such ~~THE~~ obstruction, and ~~all of the expense shall by~~
 16 ~~the commissioner be reported~~ **INTERFERENCE, OR ENCROACHMENT. THE**
 17 **COMMISSIONER SHALL REPORT THE EXPENSE** to the board of ~~supervisors~~
 18 **COMMISSIONERS**, together with the report of his **OR HER** doings in the
 19 premises. ~~, and by said board ordered~~ **IF THE EXPENSE REMAINS**
 20 **UNPAID, THE BOARD OF COMMISSIONERS SHALL ORDER THE EXPENSE** spread
 21 upon the land of the offending party. ~~, should the same remain~~
 22 ~~unpaid: Provided, That the~~ **THE** offending party causing such ~~THE~~
 23 obstruction shall be given a notice in writing of at least 5 days
 24 to remove such ~~THE~~ obstruction. **IF AN EMERGENCY EXISTS THAT**
 25 **ENDANGERS THE PUBLIC HEALTH, SAFETY, WELFARE, OR PROPERTY WITHIN A**
 26 **DRAINAGE DISTRICT, THE DRAIN COMMISSIONER OR THE DRAINAGE BOARD MAY**
 27 **TAKE IMMEDIATE ACTION TO ALLEVIATE THE EMERGENCY CONDITION AND**

1 **WAIVE THE 5-DAY NOTICE.**

2 (2) This provision as to obstruction, **INTERFERENCE, OR**
3 **ENCROACHMENT** of any drain **OR DRAIN RIGHT-OF-WAY** shall not apply
4 where the obstruction was caused by natural causes, but the owner
5 of ~~the stock~~ **LIVESTOCK** who ~~shall permit~~ **PERMITS** his **OR HER** horses,
6 cattle, pigs, and other ~~stock~~ **LIVESTOCK** to obstruct any drain by
7 tramping in it ~~shall be deemed~~ **IS CONSIDERED** to be the party
8 causing ~~such~~ **THE** obstruction.

9 (3) Nothing contained in this section shall in any way impede
10 or bar the right of any person to make criminal complaint under any
11 existing law for any obstruction, **INTERFERENCE, OR ENCROACHMENT** of
12 a drain **OR DRAIN RIGHT-OF-WAY**.